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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,293

03/08/2005

Hiroo Iwata

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26021 7590 05/28/2008

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EXAMINER

MCEVOY, THOMAS M

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

05/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,293	<b>Applicant(s)</b> IWATA ET AL.	
	<b>Examiner</b> THOMAS MCEVOY	<b>Art Unit</b> 3731	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/8/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. Claim 10 is objected to because of the following informalities: The word surface is misspelled as "3urface" in line 3. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyamoto et al. (CA 2389056).

Regarding claims 1-3, 13 and 14, Miyamoto et al. disclose an embolization device for embolizing a vessel cavity *in vivo* such as an aneurysm in a blood vessel. The embolization device comprises a biological response modifier which could be the platinum embolic coil (p. 7, lines 22-26) or an interleukin (p. 4, line 28) as disclosed in the instant application. Regarding claims 4-7, the coil with a hydrogel containing starch, chitin or chitosan (p. 4, lines 34-35) can be used as the embolic device.

4. Claims 1-5, 7-9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Steinke (US 2002/0103526).

Regarding claims 1-5, 7-9 and 13, Steinke discloses an embolization device for embolizing a vessel cavity *in vivo* such as an aneurysm in a blood vessel. The embolization device comprises a biological response modifier which could be a stent 5 or the coatings on the stent containing chitosan or curdlan (paragraph 042) which can take the form of a coil (paragraph 022).

5. Claims 1-6, 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawhney (US 2001/0046518 A1).

Regarding claims 1-6, 10, 11 and 13, Sawhney discloses an embolization device for embolizing a vessel cavity *in vivo* such as an aneurysm in a blood vessel. The embolization device comprises a biological response modifier which could be a coil (paragraphs 0073 and 0074) or stent (paragraph 0088) or the coatings on the medical devices (paragraphs 0085 and 0086) containing chitin (paragraph 0035) or lentinan (paragraph 0093).

6. Claims 1-5 and 8-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Wallner et al. (US 6,890,904 B1).

Regarding claims 1-5 and 8-12, Wallner et al. disclose an embolization device for embolizing a vessel cavity *in vivo* such as an aneurysm in a blood vessel. The embolization device comprises a biological response modifier which could be a coated stent (col. 25, line 53) or the coatings containing lentinan (col. 19, line 7) or sizofiran (col. 19, line 59).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THOMAS MCEVOY whose telephone number is (571)270-5034. The examiner can normally be reached on M-F, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TM

/(Jackie) Tan-Uyen T. Ho/  
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